

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

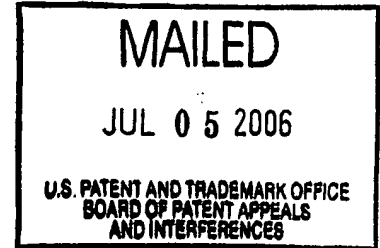
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Ex parte KENNETH B. ALBRITTON

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Application 09/995,615

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on June 29, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on November 14, 2005. The Appeal Brief is defective, for it does not comply with 37 CFR § 41.37 (c)(1)(v). 37 CFR § 41.37(c)(1)(v) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(ix) *Evidence appendix*. An appendix containing copies of any evidence submitted pursuant to §§1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See §41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

The “*Evidence appendix*” appearing on page 38 of the Appeal Brief filed November 14, 2005 is deficient because it does not have a copy of the evidence relied upon. Correction is required.

Accordingly, it is

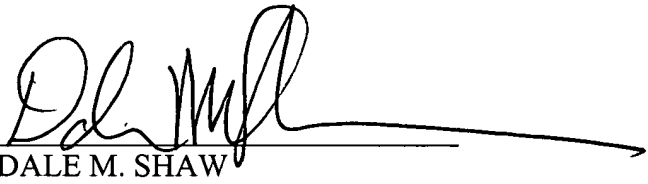
**ORDERED** that the application is returned to the Examiner for:

- 1) for notification to appellant to submit a substitute Appeal Brief which corrects the “*Evidence appendix*”;
- 2) for consideration of the substitute Appeal Brief; and

3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



A handwritten signature in black ink, appearing to read "Dale M. Shaw", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

DALE M. SHAW  
Deputy Chief Appeal Administrator  
(571) 272-9797

DMS:kis

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